

SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This **SECOND** Amendment to the Declaration of Covenants, Conditions and Restrictions of WOODCREEK, a subdivision in the City of McHenry and State of Illinois, is made this ____ day of _____, 2017 and hereby amends the original Declaration of Covenants, Conditions and Restrictions (dated October 1, 1978) as Amended_ last on the 7th day of September, 1997.

The purposes of this Second Amendment are:

- 1) To acknowledge that all responsibilities for administration of these Covenants (as outlined in the Original and First Amendment documents) have now transferred in their entirety to the Woodcreek Property Owners Association (WPOA) as directed. Where appropriate, references to clarify such relationship to the property Owner-Declarant have been made and/or removed.
- 2) The Original document and First Amendment applied in general to the start-up and build-out phases of the subdivision, and have served satisfactorily in guiding the Association's actions. However, nearly forty years have passed since the Original document was conceived and, with the passage of time, it is necessary to clarify, adjust, modify and/or update the Covenants, where appropriate and within the allowance for modification (see ARTICLE XI – SECTION 5: Modification).

ARTICLE I
Declaration and Purposes

SECTION 1: General Purposes. The developer and the owner of certain real property located in the City of McHenry, McHenry County, Illinois, desire to create thereon a subdivision. The developer and the owner desire to provide for the preservation of the values and amenities in said subdivision and to this end desire to subject the real property described in Article III, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

SECTION 2: Declaration. To further the general purposes herein expressed, the developer and the owner, for themselves, their successors and assigns, hereby declare that the real property hereinafter described in Article II as "existing properties," at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth. The provisions of this declaration are intended to create mutual equitable servitudes upon each lot becoming subject to this declaration in favor of each and all other such lots; to create privity of contract and

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estate between the grantees of such lots, their heirs, successors and assigns; and to operate as covenants running with the land for the benefit of each and all such lots becoming subject to this declaration, and the respective owners of such lots, present and future.

SECTION 3: "Common Area" shall mean all real property from time to time owned by the Association for the common use and enjoyment of all of the Owners. The Common Area is to be owned initially by the Association as set forth and described in the aforesaid Plat of Subdivision as Lot B. [Add reference to Buffer Area] No trailer, mobile home, recreational vehicle, boat, tent, shack, or other structure shall be stored, built or used upon said lots without the permission of the Homeowner's Association as may be appropriate. All owners of property in the subdivision shall be individually, or through the property owner's association, responsible for improving and maintaining all ponds, lakes, watercourses, ravines, gullies, drainage tiles, feeders and laterals in the subdivision so that all waterways shall be kept free of weeds, debris, odors and other noxious substances so that all waterways will remain free flowing, fresh and meet environmental standards acceptable for supporting fish and other aquatic life.

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ARTICLE II

Definitions

The following words and terms, when used in this Declaration shall have the following meanings:

- a. "Property" shall mean and refer to the existing property subject to this Declaration, described in Article III, Section I hereof.
- b. "Lot" shall mean any plot of land described by a number upon any recorded subdivision map of the property.
- c. "Living unit" shall mean and refer to any portion of a structure situated upon the property designed for occupancy by a single family.
- d. "Single family residential" shall mean any of the property restricted by declaration to use for improvement with dwellings.
- e. "Owner" shall mean record owner (whether one or more persons or entities) of the fee simple title to or the contract purchaser for any lot or living unit situated upon the property; but, notwithstanding any applicable theory of the deed to secure debt, shall not mean or refer to any holder thereof unless and until such holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- f. "Dwelling lot" shall mean any lot intended for improvement with a dwelling.
- g. "Dwelling" shall mean any building located on a dwelling lot and intended for the shelter and housing of a single family.
- h. "Single family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, together with his or their domestic servants maintaining a common household in a dwelling.

- i. "Story" shall mean that portion of a dwelling included between the surface of any floor and the surface of a floor next above, or if there is no floor above, the space between the floor and the ceiling next above.
- j. "Living area" shall mean that portion of a dwelling which is enclosed and customarily used for dwelling purposes and having not less than seven feet headroom, but shall not Include open porches, open terraces, breezeways, attached garages, carports or dwelling accessory buildings.
- k. "Structure" shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground.
- l. "Committee" shall mean the Architectural Review Committee.
- m. "Association" shall mean the property owners association or homeowner's association (i.e. Woodcreek Property Owner's Association or WPOA).

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ARTICLE III
Existing Property

SECTION 1: Existing Property. The real property which is and shall be held transferred, sold, conveyed and occupied subject to this declaration is located in McHenry County, Illinois, and more particularly described as follows:

Lot B, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Block 1; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 of Block 2; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of Block 3 in WOODCREEK Unit One Subdivision, being a Subdivision of the South Half of the Southeast Quarter of Section 29; Also: Of that part of the South Half of the Southwest Quarter of Section 29, described as follows: Beginning at the Northeast corner of the South Half of the Southwest Quarter of Section 29 and running thence West on the North line thereof for a distance of 925 feet to a point; thence South at right angles to the last described line, at the last described point, for a distance of 400 feet to a point; thence southeasterly on a line forming an angle of 30 degrees and 30 minutes to the left with a prolongation of the last described line, at the last described point, for a distance of 285 feet to a point; thence southeasterly in a straight and direct line to a point on a line drawn 425 feet West of and parallel to the East line of the South Half of the Southwest quarter of said Section 29, said point also being 510 feet North of the South line thereof; thence South parallel to the East line thereof for a distance of 250.03 feet to a point; thence southwesterly in a straight and direct line to a point which is 200.02 feet North of the South line thereof and also being on a line 475 feet West of and parallel to the East line of the South Half of the Southwest Quarter of said Section 29; thence South on the last mentioned parallel line for a distance of 200 02 feet to the South line thereof, thence East on said South line to the Southeast corner of the Southwest Quarter of Section 29 aforesaid; thence North to the place of Beginning, all in Township 45 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois.

In addition, real property conveyed to the Association by Meyer Material in an agreement entered into on the 31st day of October, 1994 is described as follows:

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That part of the South Half of the Southwest Quarter of Section 29, described as follows: Commencing at the Northeast corner of the South Half of the Southwest Quarter of Section 29 and running thence West on the North line thereof for a distance of 925 feet for a place of beginning; thence South at right angles to the last described line, at the last described point, for a distance of 400 feet to a point; thence Southeasterly on a line forming an angle of 30 degrees and 30 minutes to the left with a prolongation of the last described line, at the last described point, for a distance of 235 feet to a point; thence Southeasterly in a straight and direct line to a point on a line drawn 425 feet West of and parallel to the East line of the South Half of the Southwest Quarter of said Section 29, said point also being 510 feet North of the South line thereof; thence South parallel to the East line thereof for a distance of 250.03 feet to a point; thence Southwesterly in a straight and direct line to a point which is 200.02 feet North of the South line thereof and also being on a line 475 feet West of and parallel to the East line of the South Half of the Southwest Quarter of said Section 29; thence South on the last mentioned parallel line for a distance of 200.02 feet to the South line thereof; thence West on said South line, a distance of 200.01 feet to the intersection with a line drawn 675 feet West of and parallel with the East line of the South Half of the Southwest Quarter of said Section 29; thence Northerly along the last described parallel line, a distance of 146.47 feet; thence Northwesterly along a line forming an angle of 31 degrees 39 minutes 16 seconds to the right with a prolongation of the last described line, a distance of 981.75 feet; thence Northerly along a line forming an angle of 31 degrees 41 minutes 26 seconds to the right with a prolongation of the last described line, a distance of 332.15 feet, to the Northerly line of the South Half of the Southwest Quarter of said Section 29; thence Easterly along said Northerly line, a distance of 265.24 feet, to the point of beginning, in McHenry County, Illinois.

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ARTICLE IV

Architectural Review Process

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SECTION 1: Objectives. The objectives of the Developer and the property owners are to carry out the general purposes expressed in this declaration; to assure that any improvements or changes in the property will be of good and attractive design and in harmony with the natural setting of the area, and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

SECTION 2: Architectural Review Committee. To achieve developer's and property owners objectives, Bradan, a General Partnership, is designated as agent with power to administer this declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of developers' objectives. In lieu of Bradan, a General Partnership, acting as agent, the Homeowners Association Board of Directors may create a committee with the aforesaid powers. The committee shall consist of not less than three members who own homes in WOODCREEK. Matters requiring approval of the committee shall be submitted to it prior to construction. The committee has been created (in/or) as part of the Homeowner's Association hereinafter mentioned in Article IX, SECTION 1 and this committee is governed by these Covenants and the WPOA Bylaws.

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SECTION 3: Matters Requiring Approval. Prior written approval shall be obtained from the committee with respect to all matters stated in this declaration as requiring such approval. In addition thereto, no building, fence, wall or other structure shall be commenced, erected or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made, nor shall any clearing of trees or change of property grade be

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made until the plans and specifications showing the nature, kind, shape, elevations, heights, materials and color, location and grade, proposed landscaping, design and proposed location on the lot of the sanitary disposal system, of the same shall have been submitted to and approved in writing by the committee. There is on file with the Building Commissioner for the City of McHenry, Illinois, a final plat of survey. The intended purpose of building restrictions is to maintain the aesthetic quality and beauty of WOODCREEK for the benefit of all lot owners.

SECTION 4: Procedure. Whenever approval is required, appropriate plans and specifications shall be submitted to the committee, who shall either approve or disapprove such design and location and proposed construction and clearing activities within thirty (30) days after said plans and specifications have been submitted to it, except that, if such plans and specifications are disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. The committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. If such plans and specifications are not approved or disapproved within thirty (30) days after submission, approval will not be required and this article will be deemed fully complied with. ~~Approval or disapproval shall be by simple majority of the acting committee members.~~ At the discretion of the committee a reasonable filing fee, as established, shall accompany the submissions of such plans to defray expenses. No additional fee shall be required for resubmission of plans reused in accordance with recommendations made upon disapproval. A copy of each approved set of plans and specifications shall be kept on file.

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SECTION 5: Deviations from Covenants and Restrictions. Only the Board of Directors of the Association shall have the power to enter into agreements with the owner of any lot, without the consent of the owner of any other lot, or adjoining or adjacent property, or of the City of McHenry, to deviate from the provisions of the covenants or restrictions within the jurisdiction of the committee for reasons of practical difficulty or particular hardships which otherwise would be suffered by such owner. Any such deviation, which shall be manifested by written agreement, shall not constitute a waiver of any such covenant as to other lots in the property. Deviations in contradiction of the ordinances of the City of McHenry will need the approval of the City of McHenry.

ARTICLE V
General Restrictions

SECTION I: Land Use - Single Family Residential. Any portion of the property designated by this declaration for "Single Family Residential" use shall be used only as dwelling lots for Single family residences and shall be subject to the restrictions set forth in this Article V or as modified or added to by the provisions of this declaration pertaining thereto. As provided in this declaration, no building shall be erected on any such lot except

one dwelling designed for occupancy by a single family. No structure may be erected or maintained on any such lot except as shall be approved in writing by the Architectural committee.

SECTION 2: Quality of Structures. It is the intention and purpose of these covenants to insure that all structures shall be of a quality of design, workmanship and materials which are compatible and harmonious with the natural setting of the area and other structures within the development. All structures shall be constructed in accordance with applicable government building codes and with more restrictive standards that may be required by the committee.

SECTION 3: Location of Structure. ~~All~~ structures, fences and plantings shall be located within the building lines established on each lot and designated on the final plat of survey and/or the committee and the Building Commission or City Engineer for the City of McHenry, Illinois. These location restrictions may be varied in accordance with the provisions of, Article IV, Section 5 of this document. ~~All fencing requests must be approved by the Architectural Committee. Certain fencing may be required by the City of McHenry building codes for areas such as in-ground pools.~~

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SECTION 4: Nuisances. No noxious or offensive activity shall be carried on, in or upon any premises, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No plants or seeds or other things or conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a lot.

SECTION 5: Temporary Structures. No trailer, mobile home, recreational vehicle, tent, shack or other structure, and no temporary building or structure of any kind shall be used for a residence, either temporary or permanent. No trailer, mobile home, recreational vehicle, tent, shack or temporary building shall be exteriorly stored on any lot at any time. Temporary structures used during the construction of a structure shall be on the same lot as the structure and such temporary structures shall be removed upon completion of construction. ~~Small tool/storage sheds that are planned to be permanent, and constructed to match quality of materials and coloration of existing housing on the lot may be allowed, but only at the discretion of the committee and after prior submission of plans and location to the committee and its approval.~~

SECTION 6: Completion of Construction. Any construction undertaken on any lot shall be continued with diligence toward the completion thereof and construction of any dwelling shall be completed within one year from commencement of construction, except that such period may be extended for a reasonable time by reason of act of God, Labor disputes or other matters beyond the owner's control.

SECTION 7: Maintenance of Lots. All lots, including adjacent parkways, whether occupied or unoccupied, and any improvements placed thereon, at all times shall be maintained in such manner as to prevent their becoming unsightly, unsanitary, or a hazard to health.

SECTION 8: Lot Appearance. No person shall accumulate on his lot junked or non-working vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles provided therefore and stored under a permanent roof until removed from the lot. Fuel tanks must be underground.

SECTION 9: Vegetation. No lot owner shall permit trees, brush, grasses or other vegetation to grow or collect upon his property without keeping it properly cut, mowed, trimmed and/or removed for the protection of health and safety, and in the event the lot owner shall fail to maintain the vegetation, the property owners' association hereinafter mentioned or the City of McHenry may enter upon the property after due notice to the lot owner to properly maintain the lot, and may control the vegetation for the protection of health and safety.

SECTION 10: Other Prohibited Matters. No animals other than inoffensive common domestic household pets, such as dogs and cats, shall be kept on any lot. ~~Habitual parking of commercial vehicles on any lot or parking area adjacent is prohibited.~~ Habitual parking on roadways is prohibited.

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SECTION 11: Easements Reserved with Respect to Lots: Developer and the owner reserve for themselves, their successors and assigns, easements over each lot, and the right to ingress and egress to the extent reasonably necessary to exercise such easements, as follows:

- a. Utility easements shown on any recorded plat of the property, except that if any plat fails to establish easements for such purposes, then a 10-foot strip running alongside lot lines, front lot line and rear lot line of dwelling lots is reserved for the installation and maintenance of utility facilities, and incidental usage related thereto.
- b. The following lots shall bear easements for drainage:

Lots 3, 4, 5, 6, 8, 9, 13, 14 and 15 in Block 1;

Lots 2, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, 23, 24 and 25 in Block 2;

Lots 3, 4, 5, ~~6~~ and ~~7~~ in Block 3

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Lot owners of these lots shall insure the free flow of all water or drainage across their property through any natural ravines, gullies, drainage tiles, ditches, feeders and laterals as exist at date of purchase and shall protect the rights of adjoining owners to the flow of water or drainage across their premises. No obstruction shall be permitted in any water or drainage course, the individual lot owners shall be responsible for maintaining the easement, and any damages caused by user of right to the easement shall be repaired and restored by such user. Open area, water course and drainage on all lots in the subdivision may be maintained by the property owner's association, or the developer (if the subdivision is still being developed) or the City of McHenry. Shall a lot owner fail to permit the flow of water

or drainage across his premises then one of the foregoing may enter upon the premises to provide for such proper water flow or drainage.

SECTION 12: Donations in Conjunction with Development: The developer/owner shall, within 18 months after the recording of the Plat of subdivision, pay to the City of McHenry, Illinois, development fee in accordance with the annexation agreement between the developer/owner and the City of McHenry. As the developer/owner sells the lots in the subdivision, it shall collect from each lot purchaser a development donation fee in addition to the sales price of the lot. The fee shall be \$900.00 per lot. The developer/owner shall forward the development fee for each lot to the City of McHenry unless the developer/owner has prepaid the development fee in which event, the developer/owner shall keep the fee as a reimbursement for development fees that were prepaid.

ARTICLE VI
Sanitary Disposal

SECTION 1: Sanitary disposal for each lot shall be by means of a septic system or other approved method designed by a registered professional engineer or registered sanitarian. Before installation, the design plans for the system shall be submitted to and a permit for installation obtained from McHenry County Health Department or any other governmental authority having jurisdiction. Any such system as installed shall be subject to inspection and final approval by the approving authority before backfilling. The cost of installation of the system shall be paid by the lot owner. No sewage disposal system shall be permitted on any lot, nor may any sewage disposal system be used, unless such system is designed, located, constructed and maintained in accordance with the requirements, standards, and recommendations of the appropriate public health authority. Final approval by the committee of building plans shall be subject to issuance of the required permit for sanitary disposal.

SECTION 2: The following lots require special engineering techniques for septic system design and construction:

- Lots 5, 6, 7, 8, 9, 10, 11, ~~12~~, 13, 14, 15, 16 and 17 in Block 1;
- Lots 2, 9, 10, 11, 12, 11, 14, 15, 16, 17, 18, 22, 23, 24, 25 and 26 in Block 2;
- and Lots 3 and 4 in Block 3.

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ARTICLE VII
Building Requirements

SECTION 1: Building Location

- a. No building, structure, erection or construction of any kind or size whatever, or any part thereof, shall be located except as may be in accordance with Article V, Section 3 and Article IV, Section

5 of this document. The building on all lots shall comply with the City of McHenry and McHenry County ordinances, as appropriate.

- b. For the purposes of this covenant, steps, breezeways and porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot or easement. Any portion of the eaves excess of three feet are to be considered as part of the building in regard to building line, side yard, and rear yard requirements.

SECTION 2: Dwelling Cost, Quality and Size

- a. The finished floor area of the single-family dwelling, exclusive of porches, breezeways and garages, shall be not less than 1600 square feet total living area for a one-story, single-family dwelling, nor less than 1800 square feet total living area for a single-family dwelling of more than one story.
- b. A garage shall be built at the same time as the private residence and must be built as an integral and permanent part of said residence, or attached thereto. Said garage shall be constructed for no more than three cars.
- c. No outside wall face shall be of asphalt brick siding, asphalt shingle siding, or unpainted aluminum siding, and all brick walls shall be of the same or like quality.
- d. No exposed tank for storage or fuel or for any other purpose may be maintained on any of the lots hereby restricted above the surface of the ground.
- e. All private drives or driveways are to be equipped with culverts where necessary.
- f. No swimming pool of temporary or collapsible construction, nor one that is portable or movable, nor one that is constructed in such a way as to hold water above ground level of the surrounding terrain, shall be permitted.
- g. Any structure on any lot in this subdivision shall be completed before it shall be occupied or used for residential purposes and within a reasonable time from the date it is started.
- h. Any lot or lots in this subdivision shall not be divided or re-subdivided into smaller lots or parcels of land.
- i. One satellite dish of 24" or less at its largest span may be erected. Location of the dish must be approved by the Architectural Committee and will be designed to limit view of the dish from the subdivision streets.

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SECTION 3: Land Use and Building Type

- a. No lot shall be used except for residential purposes. The use of the home, in addition to use as primary residence, for non-retail business or service is allowable when such business involves only the use of home office space and does not require routine delivery of goods or routine personal visitation by customers or

clients to the premises. Any such business must be allowed by the City of McHenry and comply with all local zoning ordinances.

- b. No building shall be erected, altered, placed or permitted to remain on any lot prior to the construction of a single-family dwelling.

SECTION 4: Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, and other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

SECTION 5: Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet to advertise the property for sale or rent. No more than three (3) signs not more than 5 square feet each may be displayed to endorse election candidates provided signs are placed no more than 30 days prior to an election and removed within 3 days after date of the election. Notwithstanding anything to the contrary in this declaration of building and use restrictions and protective covenants, the declarant, developer and builder may erect signs on any lot that they may own in WOODCREEK, advertising the sale of lots and residences in future land to be developed and sold adjoining and connected to this subdivision by any roads.

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SECTION 6: Mining Operations. No quarrying, mining, oil or gas drilling operations shall be conducted on any lot and, particularly, they shall not be used or excavated for gravel pits, and no gravel shall be mined or removed from the same for any purpose whatsoever, except to the extent necessary to grade said lots properly for the erection of approved improvements as aforesaid, or to excavate for the foundations and basement of such improvements.

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SECTION 7: Sight Distance at Intersections.

- a. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended.
- b. The same sight-line limitations shall apply on any lot within ten feet from the intersection of a street line with the edge of a driveway.
- c. Within such distances of such intersections, the foliage line of all trees is to be maintained at sufficient height to prevent obstruction of such sight lines.

SECTION 8: Land Near Water Courses. No building, nor any material or refuse, shall be placed or stored on any lot within the property line of any open water course, except that clean fill may be placed near, provided that the natural flow is not altered or blocked by such fill.

SECTION 9: Parking. No trailers, mobile homes, recreational vehicles, buses, trucks, boats or similar articles shall be stored or placed temporarily or permanently on any lot unless it is parked in a garage.

SECTION 10: Model Homes. Construction of model homes is expressly permitted as long as they conform to the restrictions hereby created and are approved in accordance with architectural review process of Article IV hereof.

SECTION 11: Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other wastes shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and under a permanent roof.

ARTICLE VIII

Property Rights

SECTION 1: Owner's Easements of Enjoyment. Every lot owner shall have a right and easement of enjoyment in and to the Common Areas and facilities which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid and for a period not to exceed 60 days for any infraction of its published rules and regulations.
- b. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be deemed proper by the members. No such dedication or transfer shall be effective unless an Instrument consenting to such dedication or transfer shall have been executed by two-thirds (2/3) of each class of members which instrument shall thereafter be recorded in the Office of the Recorder of Deeds of McHenry County, Illinois. Any owner may delegate, in accordance with the By-Laws of the Association, his rights of enjoyment in and to the Common Areas and facilities to the members of his household or to his tenants or contract purchasers who reside on his lot, or to the members of their households.

SECTION 2: Owner's Easements for Ingress and Egress: Declarant does hereby establish and declare an easement in perpetuity for ingress and egress over, upon and across all of the Common Areas now or at any time hereafter included in the properties, for the use and benefit of the owners and their successors and assigns at the date hereof and from time to time hereafter. Said easement shall be an easement appurtenant, running with the land in the subdivision. Reference to covenants, conditions and restrictions of record in any deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, shall be sufficient to create and reserve such easement to the

respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easement were fully recited and set forth in its entirety, in such document.

ARTICLE IX

Association, Membership, and Voting Rights

SECTION 1: Association. The Declarant shall cause to be created an Illinois not-for-profit Corporation to be called the WOODCREEK PROPERTY OWNER'S ASSOCIATION.

SECTION 2: Membership. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot.

SECTION 3: Voting Rights.

Class A. Class A members shall be all owners (with the exception of Declarant while holding Class B membership) and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any one lot, all such persons collectively shall be considered to be one member. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to such lot.

Class B. Class B no longer exists.

ARTICLE X

Covenant for Assessments

SECTION 1: Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments, and (2) Special Assessments, such assessments to be established and collected as hereinafter provided. The Annual Assessments and Special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the lot against which each such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorney fees, shall also be their personal obligation of the person who is the owner of such lot at the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them. Assessments shall be collected and paid in periodic installments as determined by the Association and shall be additional to installments paid in relation to mortgage indebtedness, and taxes.

SECTION 2: Purposes of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the properties and for the improvement and maintenance of the Common Areas of water and drainage courses of the homes situated on the properties, and also for the conduct of the general affairs of the Association.

SECTION 3: Levy of Assessments. The Board of Directors of the Association shall levy Annual Assessments on January 1 of each year subject to the limitations hereinafter provided:

- a. Annual assessments for each lot shall be set by the Board of Directors of the Association annually on an equally proportioned basis. Such annual assessment will be based on a budget for the Association adopted by the Board of Directors in the last quarter of each calendar year for the forthcoming calendar year.

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SECTION 4: Date of Commencement of Assessments & Due Dates. The Assessments shall commence as to all lots on the first day of the month following the conveyance of the Common Area to the Association. Title to Lot B will be conveyed to the WOODCREEK Homeowners Association when 50% of the lots in Unit One of the subdivision have been sold. When additional land shall be subjected to these covenants, conditions, easements, restrictions, charges and hens herein provided, the Assessments shall commence on the first day of the month following the date of recordation of the declaration or supplementary declaration annexing such additional land. The first Annual Assessments shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Annual Assessments against each lot at least 30 days in advance of each Annual Assessment period. Written notice of the Annual Assessments shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand, and for a reasonable charge, shall furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

SECTION 5: Special Assessments. In addition to Annual Assessments, the Association may levy in any assessment year, Special Assessments for purposes of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, payment of property taxes and payment for water and drainage course maintenance and Improvement, provided that any such special assessment shall have the assent of two-thirds (2/3) of the votes of the Board of Directors of the Association at a meeting duly called for this purpose. The amount of such special assessment and the reasons therefor shall be clearly identified in the assessment notice conveyed to all homeowners at least thirty (30) days prior to said meeting.

SECTION 6: Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all lots and shall be collected annually, but may be collected on a monthly basis at the discretion of

the Board of Directors. Notwithstanding the foregoing, the Annual Assessment on vacant lots or lots superimposed with an unoccupied unsold home which has yet to be occupied since it was built, shall be limited to fifty (50%) percent of the Assessment for a lot on which there is an occupied home.

ARTICLE XI
General Provisions

SECTION 1: Inclusion of Additional Acreage and Lots of Owner Declarant. The owner may from time to time develop and sell additional lands or units of WOODCREEK, as may abut upon WOODCREEK Subdivision. The owner declarant, at his election may cause such properties to be bound by the covenants, conditions and restrictions contained herein, so that the entire WOODCREEK development may be maintained and operated as a coordinated, aesthetic subdivision.

SECTION 2: Duration. The covenants and restrictions set forth in this amended declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owners of any land subject to this declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds of the lots and living units has been recorded agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement of change shall be effective unless made and recorded one year in advance of the effective date of such changes, and unless written notice of the proposed agreement is sent to every owner and the City of McHenry at least ninety (90) days in advance of any action taken.

SECTION 3: Notices. Any notice sent or required to be sent to any member or owner under the provisions of this declaration shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the person who appears as owner on the records of the McHenry County Tax Collector at the time of the mailing. A listing of owner of record for each property shall be maintained by the Treasurer of the association.

SECTION 4: Enforcement.

Enforcement of these covenants and restrictions shall be by any proceeding at law or inequity against any person or persons violating or attempting to violate any covenant or restriction. Such action may be either to restrain violation or to recover damages, or against the land to enforce any lien created by these covenants. Failure by any owner to enforce any covenant or restriction herein contained in no event shall be deemed a waiver of the right to do so thereafter. A property owner who violates or permits a violation of the covenants, conditions or restrictions of this declaration will be subject to an action at law brought against the property owner by the Association with the approval of its Board of Directors. In the event a judgment is obtained for violation of this declaration, court costs, attorney's fees and other costs of litigation will be paid by the property owner who violated this Declaration.

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Alternatively, violations of these covenants may be subject to a fee structure as set and deemed appropriate by the Board of Directors.

SECTION 5: Modification. By recorded supplemental declaration, the Board of Directors may modify any of the provisions of this declaration or any supplemental declaration for the purposes of clarification or otherwise, provided no such modification shall change the substantive provisions of this declaration or any supplemental declaration or materially alter the rights of any owner established by any such document.

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SECTION 6: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order in no way shall affect any other provisions, which shall remain in full force and effect.

SECTION 7: McHenry Community Obligations. All lot owners and the WOODCREEK Homeowners Association shall have the obligation to provide upkeep, repair and maintenance to common areas, common recreational space, common recreational facilities, recreational areas and water and drainage courses on private lots. In default of the obligation to maintain, replace and repair any of the foregoing, the City of McHenry, Illinois may, at its option, go upon the property of the subdivision to replace, maintain or repair any common areas, common recreational space, common recreational facilities, recreational areas and water and drainage courses on private lots. The cost incurred by the City of McHenry, Illinois, in the maintenance of any of the foregoing may be charged as a lien upon the lots, blocks, tracts and parcels of land as shall have been obligated for the maintenance, replacement and repair and shall be enforceable as in the case of other liens and mortgages. Notwithstanding the right or privilege of the City of McHenry, Illinois, to go upon the property of the subdivision and replace, maintain or repair any of the foregoing areas, no amount of maintenance shall constitute acceptance by the City of McHenry, Illinois of a dedication by default of such facilities or properties as public properties.

This instrument as amended was approved by a majority vote in excess of two-thirds of the members of WOODCREEK PROPERTY OWNER'S ASSOCIATION on _____ at a meeting properly called by notice for said purpose. This amended declaration shall take effect one year after the date of recording. IN WITNESS WHEREOF, this instrument is executed by the President and Secretary this _____.

Executed by:

Attested by:

Mike Bown
President, WPOA

Ed Floden
Secretary, WPOA

The owner declarant shall pay an annual assessment of TWENTY-FIVE AND NO/100

(\$25 00) DOLLARS per year and no special assessments after the date of transfer of Lot B.

Purchasers from the owner declarant shall pay a FIFTY AND NO/100 (\$50 00) DOLLARS annual assessment in the year after their year of purchase.